UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,731	12/21/2000	John Bullock	1QN0001	8862

25235   7590   05/22/2008

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ART UNIT	PAPER NUMBER
3625	

MAIL DATE	DELIVERY MODE
05/22/2008	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte JOHN BULLOCK, JOHN MOTLER, and
JOHN MILLER

_____

Appeal 2008-0909
Application 10/042,731
Technology Center 3600

_____

Decided: May 21, 2008

_____

Before LINDA E. HORNER, ANTON W. FETTING, and
MICHAEL W. O'NEILL, *Administrative Patent Judges.*

O'NEILL, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Bullock, et al. (Appellants) seek our review under 35 U.S.C. § 134 of
the final rejection of claims 1-9, 12, 13, 15, 17-23, and 25-32. (Final Office

Action, mailed Feb. 21, 2006.) Claims 10, 11, 14, 16, and 24 have been

cancelled.[1] (Amendment, filed Dec. 6, 2005.) We have jurisdiction under

35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM-IN-PART.

THE INVENTION

The nonprovisional patent application on appeal was granted a filing

date of December 21, 2000 and filed under 35 U.S.C. § 111(a) listing the

Appellants as the inventors. The nonprovisional patent application claims

benefit of priority under 35 U.S.C. § 119(e) to the provisional application

with the number of 60/180,421 filed February 4, 2000 under 35 U.S.C.

§ 111(b). (Spec. 1:4-9.) The present invention relates to systems and

methods for matching human resources to human resource needs of an

organization. (Spec. 1:11-14.)

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[1] The Appeal Brief identifies claims 18-20 and 28 are cancelled. (Br. 2.) In
addition, the Appeal Brief states no claim amendments were filed
subsequent to the Final Office Action. (Br. 2.) However, a review of the
prosecution history reveals an Amendment after final was filed on April 13,
2006. The Appellant requested cancellation of claims 18-20 and 28 in that
amendment. (Amendment, filed Apr. 13, 2006, page 9.) Amendments filed
after final action are not enter as a matter of right. 37 C.F.R. § 1.116(b)
(2007). The Examiner did not enter the Amendment. (Advisory Action,
mailed Apr. 24, 2006.) The Examiner in the Answer has included claims
18-20 and 28 in the ground of rejection to be reviewed. (Answer 3.)
Accordingly, claims 18-20 and 28 are before us to review whether the
Examiner erred in rejecting these claims.

Claims 1, 12, 15, 18, 21, 22, 23, and 28, reproduced below, are representative of the subject matter on appeal.

1. A system for matching entities having needs to entities having capability to meet the needs, the system comprising:

a plurality of needs profiles, wherein each need profile comprises a data record specifying attributes about a need;

a plurality of capability profiles, wherein each capability profile comprises a data record specifying a set of attributes of an entity having a capability of meeting a need; and

a matching engine coupled to repetitively and automatically examine the needs profiles and capability profiles to identify matched profiles and for each pair of matched profiles to determine a pair of scores indicating a compatibility of a particular match to each of the matched profiles, wherein a match comprises a set of profiles judged to be substantially compatible based upon correspondence of the attributes specified therein.

12. A job applicant agent comprising:

a user interface for gathering information from a job applicant;

a data record generated from the gathered information, the data record comprising a plurality of attributes describing skills of an associated job applicant, the data record being formatted for use in and continuously accessible by an external matching engine, wherein the data record further comprises attributes describing the associated job applicant's desire to utilize specified skills in future job assignments; and

a network interface configured to communicate the data record to the external matching engine.

15. An automated hiring agent comprising:

a user interface for gathering information from a human hiring agent;

a data record generated from the gathered information, the data record comprising a plurality of attributes describing

skills required by an associated job, the data record being formatted for use in and continuously accessible by an external matching engine, wherein the data record comprises public data accessible by users accessing the external matching engine and restricted data for use by the external matching engine in obtaining a match for the data record and for sharing with the users accessing the external matching engine based on predefined rules; and

a network interface configured to communicate the data record to the external matching engine.

18. A matching engine for matching attributes specified by a plurality of hiring agents with attributes specified by a plurality of job applicant agents, the matching engine comprising:

a database storing a plurality of hiring agents and a plurality of job applicant agents;

a mechanism for continuously comparing profiles in the database to identify matches between hiring agents and job applicant agents.

21. A computer-implemented method for incrementally revealing information in a profile matching system comprising:

providing a plurality of profiles in memory of a computing device, each profile associated with a user and each profile comprising a set of attributes describing the associated user;

at least one restricted information section within a profile such that the profile can be accessed by the users accessing the computing device while the restricted information section remains protected from the accessing users;

automatically matching profiles based on correspondence of attributes specified in the profiles, including attributes within the restricted section;

with the computing device, presenting automatically matched profiles to the users associated with the profile in a manner that prevents exposing the restricted information section;

enabling each user that is presented with a matched profile to indicate further interest; and

responsive to receiving indication of the further interest from all the users associated with a matched profile, presenting with the computing device detailed information including information in the restricted information section of a matched profile.

22. A state machine for use in an human resources matching engine, the state machine comprising:

an unmatched state;

an automatched state reached from the unmatched state upon detection of a substantial correspondence between a first stored profile and a second stored profile;

a first interested state reached from the automatched state upon indication that a user associated with the first stored profile is interested in pursuing a relationship with a user associated with the second stored profile;

a second interested state reached from the automatched state upon indication that a user associated with the second stored profile is interested in pursuing a relationship with a user associated with the second stored profile;

a not interested state reached from the automatched state upon indication that either the user associated with the first stored profile or the user associated with the second stored profile is not interested in pursuing a relationship with the other user; and

an evaluating state reached from the first interested state upon indication that a user associated with the second stored profile is interested in pursuing a relationship with a user associated with the first stored profile or upon indication that a user associated with the first stored profile is interested in pursuing a relationship with a user associated with the second stored profile.

23. A method implemented by processes running on a human resources server for matching job applicants with hiring agents, the method comprising the acts of:

generating a plurality of needs profiles, wherein each needs profile comprises attributes about a need associated with a particular hiring agent;

storing the needs profiles as a data record in memory accessible by the human resources server;

generating a plurality of capability profiles, wherein each capability profile includes attributes of a job applicant;

storing the capabilities profiles as a data record in memory accessible by the human resources server;

repetitively and automatically matching the needs profiles and capability profiles to identify matched profiles, wherein a match comprises a set of profiles judged to be substantially compatible based upon correspondence of the attributes specified therein; and

notifying a first user associated with one of the needs profiles and a second user associated with one of the capability profiles of the match, wherein the notifying comprises providing a degree of compatibility for the match to the first user and a degree of compatibility for the match to the second user.

28. A signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method for job applicants with hiring agents, the method comprising:

generating a plurality of needs profiles, wherein each needs profile comprises attributes about a need associated with a particular hiring agent;

storing the needs profiles as a data record;

generating a plurality of capability profiles, wherein each capability profile attributes of a job applicant;

storing the capabilities profiles as a data record; and

repetitively and automatically matching the needs profiles and capability profiles to identify matched profiles, wherein a match comprises a set of profiles judged to be substantially

> compatible based upon correspondence of the attributes
> specified therein.

THE PRIOR ART

The Examiner relies upon the following as evidence of

unpatentability:

Kurzius	US 6,385,620	May 07, 2002
Joao	US 6,662,194	Dec. 09, 2003
Shapiro	US 6,915,269	Jul. 05, 2005
Shapiro prov. appl.	60/173,259	Dec. 23, 1999

THE REJECTION

The following rejection is before us for review:

Claims 1-9, 12, 13, 15, 17-23, and 25-32 are rejected under 35 U.S.C.

§ 103(a) as being unpatentable over Kurzius, Joao, and Shapiro.

ISSUE

The issue is whether the Appellants have shown that the Examiner

erred in establishing a prima facie case of obviousness as to claims 1-9, 12,

13, 15, 17-23, and 25-32 over Kurzius, Joao, and Shapiro.

FINDINGS OF FACT

We find that the following enumerated findings of fact are supported

by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849

F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

1. Kurzius teaches a job posting database is composed of a plurality of job posting records that are generated from job posting submissions received from a web server. (Kurzius, col. 7, ll. 8-25.) Kurzius also teaches a job posting review template that includes fields used to display job criteria for a particular job posting record that is accessed for review. (*Id.*) Kurzius teaches a web server receives candidate qualification data in the form of a candidate profile from a job candidate. (Kurzius, col. 5, ll. 49-67.) Kurzius teaches a candidate matching engine matches candidate records to job posting records and the candidate matching engine includes algorithms and/or hierarchies of matching criteria such that different weights can be assigned to different criteria depending on empirical data, employer, and/or recruiter preference. (Kurzius, col. 8, ll. 28-40.)

2. Kurzius teaches the system disclosed therein includes a web server in communication with a candidate client, wherein the candidate client includes a web browser. Similarly, Kurzius teaches a web server in communication with a recruiter client and an employer client, wherein both clients include web browsers. (Kurzius, col. 3, ll. 66-67 and col. 4, l. 63 to col. 5, l. 2.) Kurzius also teaches a candidate's qualification data is communicated to the database server for processing, indexing, and storage. (Kurzius, col. 5, ll. 55-57.) Kurzius also teaches candidates can indicate career goals, desired benefits, and other commentary directed toward the candidate's background or desired employment opportunity. (Kurzius, col. 16, ll. 50-56.) The data

provided by the candidate is associated with the candidate-user's profile and used by the system in order to obtain candidate qualification data which is used for the candidate matching process. (Kurzius, col. 16, ll. 10-15 and col. 17, l. 64 to col. 18, l. 2.)

3. As shown in Figure 14a, Kurzius provides a teaching of allowing a user to enter career goals. As shown in Figure 14b, Kurzius provides a teaching of allowing the user to select skills that will be used by the matching engine to determine matching profiles. (Kurzius, Figures 14a and 14b.)

4. Joao teaches providing job searching services, recruitment services and/or recruitment-related services, which can be programmed to be self-activating and/or be activated automatically and the operation may be triggered by any type of pre-specified event and/or occurrence, which may include a new individual listing, a new employer and/or a hiring entity listing. (Joao, col. 5, l. 65 to col. 6, l. 9, col. 9, ll. 12-16, col. 28, ll. 31-41, col. 30, ll. 5-12, and col. 39, ll. 22-25.)

5. Joao teaches the use of generic values (data/information) rather than using actual values to preserve confidentiality. (Joao col. 14, l. 61 to col. 15, l. 10, and col. 22, ll. 9-12.) Moreover, the provisional application filed by Joao teaches the use of generic values (data/information) rather than using actual values to preserve confidentiality. (Joao, provisional application number 60/146,776, pg. 63, ll. 3-5.)

6. Joao teaches if it is determined that the employer is interested in pursuing discussions with an individual, then the central processing computer will notify the individual by transmitting a message to the individual, the individual's computer associated with the individual, so notifying the individual. The individual can review the message and transmit a response to the central processing computer. The central processing computer will process the individual's response and determine if the individual is interested in pursuing discussions with the employer. (Joao, col. 23, lines 35-52.)

7. Joao teaches the central processing computer will determine whether the individual wants to apply for any of the reported jobs. If it is determined that the individual does not want to apply for any of the reported jobs, the central processing computer will record and store the data with respect to the search or corresponding results including the actions of the individual. (Joao, col. 22, ll. 54-67.)

8. Joao teaches that if it is determined that the employer is interesting in pursuing the opportunity with the individual, the central processing computer will put the employer and the individual in contact with each other by transmitting contact information to either or both of the employer and/or the individual. The central processing computer can monitor the interview, employment screening, and/or recruitment processes, which takes place between the employer and the individual. (Joao, col. 24, ll. 22-49.)

9. Shapiro's provisional application suggests, in a bilateral evaluation method for delivering products or services, analyzing a preference

profile for each participating party to derive a list of parties providing a likely good fit to the party's preferences, communicate the list to the party, and optionally having each list ranked according to the approximate degree of fit. (Shapiro prov. appl., pg. 2, ll. 16-21.) Shapiro's provisional application does not disclose or teach how to perform this analysis step.

10. Shapiro teaches in order to determine parties with the closest fit one can use either an aggregate value method or a distance value method. The aggregate value method computes an aggregate value for each vector by summing the components of the vector. The distance value method compares a linear distance value between pairs of functions generated for each party. (Shapiro, col. 14, ll. 1-63.)

PRINCIPLES OF LAW

A nonprovisional patent application filed under 35 U.S.C. § 111(a) for an invention disclosed in the manner provided by 35 U.S.C. § 112, first paragraph, in a provisional application filed under 35 U.S.C. § 111(b) by the inventors named in the provisional application shall have the same effect, as to such an invention, as though filed on the date of the provisional application filed under 35 U.S.C. § 111(b), if the nonprovisional patent application is filed not later than twelve months after the date on which the provisional patent application was filed and contains a specific reference to the provisional application. 35 U.S.C. § 119(e)(1) (2002).

In *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727 (2007), the Supreme Court particularly emphasized "the need for caution in granting a patent

based on the combination of elements found in the prior art," *id.* at 1739, and discussed circumstances in which a patent might be determined to be obvious. Importantly, the Supreme Court reaffirmed principles based on its precedent that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* The Supreme Court stated that there are "[t]hree cases decided after *Graham* [that] illustrate this doctrine." *Id.* (1) "In *United States v. Adams*, 383 U.S. 39, [50-51] (1966), ... [t]he Court recognized that when a patent claims a structure already known in the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable result." *Id.* at 1740. (2) "In *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57, [60-62] (1969) ... [t]he two [pre-existing elements] in combination did no more than they would in separate, sequential operation." *Id.* (3) "[I]n *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, [282] (1976), the Court derived ... the conclusion that when a patent 'simply arranges old elements with each performing the same function it had been known to perform' and yields no more than one would expect from such an arrangement, the combination is obvious." *Id.* The principles underlying these cases are instructive when the question is whether a patent application claiming the combination of elements found separately in the prior art would have been obvious. Thus, when considering obviousness of a combination of known elements, the operative question, as stated by the Supreme Court, is "whether the improvement is more than the predictable use of prior art elements according to their established functions." *Id.* With this as background, we analyze the specific rejections made by the Examiner of the claims on appeal.

ANALYSIS

In reaching our decision in this appeal, we have given careful consideration to the Appellants' Specification and claims, to the applied prior art references, and to the respective positions articulated by the Appellants and the Examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the Examiner is sufficient to establish a prima facie case of obviousness with respect to claims 15, 17, and 22 and not to claims 1-9, 12, 13, 21, and 23, 25-27, and 29-32 and there are no secondary considerations for our consideration. Accordingly, we will reverse the Examiner's decision to reject claims 1-9, 12, 13, 21, and 23, 25-27, and 29-32, while affirming the Examiner's decision to reject claims 15, 17, and 22, and summarily affirming the Examiner's decision to reject claims 18-20, and 28 under 35 U.S.C. § 103(a). Our reasoning for this determination follows.

Claims 1-9

We agree with the Examiner that Kurzius teaches a job posting database composed of job posting records generated from job posting submissions, a server receiving candidate qualifications data from a candidate profile from a job candidate, and a matching engine, and Joao teaches providing job searching services, recruitment services and/or recruitment-related services, which can be programmed to be self-activating and/or be activated automatically. (Facts 1 and 4.) We find these teachings satisfy the limitations of a plurality of needs profiles each having a data

record specifying attributes of a need and a plurality of capability profiles comprising data records specifying a set of attributes of an individual capable of fulfilling the needs, and a matching engine to repetitively and automatically examine the needs and capability profiles to identify matches. We disagree with the Examiner, as the Appellant has contended in the Brief, that Shapiro's provisional application teaches determining a pair of scores indicating compatibility of a particular match. (Br. 10-11.) Instead, as the Appellants have contended in their Brief, Shapiro's provisional application lacks discussion to indicate a pair of scores is obtained to determine the "likely good fit." The discussion in Shapiro's provisional application suggests analyzing preference profiles to indicate a likely good fit. (Fact 9.) We find that this suggestion in Shapiro's provisional application does not satisfy the limitation of determining a pair of scores indicating compatibility of a particular match. Moreover, the disclosure in the Shapiro patent of values is directed to matching parties by methods not disclosed, taught, or suggested in Shapiro's provisional application. (Compare Fact 9 to Fact 10.) Accordingly, the Appellants have shown that the Examiner erred in rejecting claims 1-9.

Claims 12 and 13

We agree with the Examiner that Kurzius discloses a web server in communication with a candidate client. (Fact 2.) We find this disclosure in Kurzius satisfies the limitation of a user interface for gathering information from an applicant. We agree with the Examiner that Kurzius teaches candidate qualification data being communicated to the database server for processing, indexing, and storage and Kurzius teaches a matching engine. (Facts 1 and 2.) We find these teachings in Kurzius satisfy the claim

limitation of a data record generated from gathered information, formatted for used and continuously accessible by a matching engine. We agree with the Examiner that Kurzius discloses a web server and database server communicating across a communication link. (Fact 2.) We find this disclosure in Kurzius satisfies the limitation of a network interface to communicate the data record. We disagree with the Examiner, as the Appellants have contended, the disclosure of a candidate's indication of career goals, desired benefits, entry of skills, and other comments directed toward a candidate's background or desired employment discloses the claim limitation wherein the data record further comprises attributes describing an applicant's desire to utilize specified skills in future job assignments. At most, this teaching in Kurzius suggests the desires of a candidate and possibly any prerequisite skills needed for a particular job (Fact 3), but not, the desire to utilize specific skills in future job assignments. Accordingly, the Appellants have shown that the Examiner erred in rejecting claims 12 and 13.

Claims 15 and 17

The Appellants argued claims 15 and 17 has a group. As such, we select claim 15 as the representative claim and claim 17 will stand or fall with claim 15. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

We agree with the Examiner that Kurzius teaches a web server in communication with a recruiter client and an employer client wherein the recruiter client and an employer client include a web browser. (Facts 1 and 2.) We find these teachings satisfy the limitation of a user interface for gathering information from a hiring agent. We agree with the Examiner that Kurzius teaches a web server and database server can be separate servers

communicating across a particular communications link and the system in Kurzius may be part of a local area network (LAN), a wide-area network (WAN) or other suitable network or interconnection of computing devices. (*Id.*) We find these teachings satisfy the limitation of a network interface as claimed. We agree with the Examiner that Kurzius discloses a job posting review template having fields that are used to display job criteria for a particular job posting record that is accessed for review. (Fact 1.) We find this disclosure in Kurzius satisfies the limitation of generating a data record describing skills and comprising public data. We agree with the Examiner that Joao teaching of using generic terms rather than actual values suggests of confidentiality. (Fact 5.) We find this teaching satisfies the limitation of using restricted data in the matching engine, because the Examiner has reasoned by using generic terms the user is restricting hiring agents from obtaining the actual data without the user's consent and upon a showing of interest by a hiring agent, the user can provide the actual data. (Answer 12.) As the Examiner has stated, the use of generic data serves the same functionality as restricting data – not disclosing data the user wishes not to be disclosed, yet the data is used for matching and upon interest the user can provide the data. (Answer 12.) Joao thus provides a reasonable basis to support the Examiner's determination that Joao's teaching of using generic data to preserve confidentiality satisfies the limitation of restricted data so as to shift the burden to the Appellants to prove that this is not the case. *See In re King*, 801 F.2d 1324, 1327 (Fed. Cir. 1986). Instead, the Appellants provide general statements referring to Joao's provisional application and this provisional application does not teach the limitation. (Br. 13.) We have reviewed the provisional application and find the provisional application

with respect to this limitation teaches the same subject matter as Joao's patent that the Examiner used to make the rejection. (Fact 5.) Accordingly, we find the Appellants have not shown that the Examiner has erred in rejecting claims 15 and 17.

Claims 18-20

The Appellants attempted to cancel claims 18-20 in an after-final Amendment; however, the Examiner refused to enter the Amendment. As such, the claims are still before us. We summarily affirm this rejection advanced by the Examiner, because Appellants have neither requested review of this ground of rejection as to claims 18-20 nor addressed the merits of this rejection in the Brief. *See* 37 C.F.R, §§ 41.37(c)(1)(vi) and (vii); Manual of Patent Examining Procedure § 1205.02.

Claim 21 and 29

We agree with the Examiner that Kurzius discloses a job posting database being composed of a plurality of job posting records that are generated from job posting submissions received from the web server and the job posting review template that includes fields used to display job criteria for a particular job posting record that is accessed for review. (Fact 1.) We find these teachings satisfy the limitation of a computing device having in its memory a plurality of profiles wherein each profile has a set of attributes describing a user. The Examiner urges that the remaining limitations in the claim are the same as those in claims 1 and 15. (Answer 16.) The Appellants contend the combination of Kurzius, Joao, and Shapiro fail to teach the combination of limitations of profiles with restricted portions, using the information in the restricted portions to perform matching, and then presenting the information upon a showing of interest by

users in a manner that prevents exposing the restricted information. (Br. 6.)
We agree with the Appellants that the combination of Kurzius, Joao, and
Shapiro fail to teach the enumerated limitations that are subsequent to the
limitation of a computing device having in its memory a plurality of profiles
wherein each profile has a set of attributes describing a user, because we
find these limitations are not the same as those in claims 1 and 15 as the
Examiner had concluded. Accordingly, the Appellants have shown that the
Examiner erred in rejecting claim 21, and claim 29, which depends
therefrom.

Claim 22

We agree with the Examiner that in Kurzius prior to activating the
matching engine the system is in an unmatched state. (Fact 1.) We find this
teaching satisfies the limitation of an unmatched state. We agree with the
Examiner that Kurzius discloses a matching engine. (*Id.*) We find when in
operation the matching engine satisfies the limitation of the automatched
state. We agree with the Examiner that Joao teaches messages being sent
between employer and individual when parties are interested. (Fact 6.) We
find this teaching satisfies the limitations of first and second interested
states. We agree with the Examiner that Joao teaches an individual may not
want to apply for any of the reported jobs. (Fact 7.) We find this teaching
satisfies the limitation of the not interested state. We agree with the
Examiner that Joao teaches that if an employer is interested in an individual,
then contact information will be transmitted. (Fact 8.) We find this teaching
satisfies the limitation of the evaluating state. The Appellants have
contended Kurzius and Joao fail to show or suggest the transitions called for
in claim 22. (Br 13.) The Appellants' contentions are no more than general

statement of what claim 22 recites. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. 37 C.F.R. § 41.37(c)(1)(vii) (2007). A general allegation that the art does not teach any of the claim limitations is no more than merely pointing out the claim limitations. Accordingly, we find the Appellants have not shown that the Examiner erred in rejecting claim 22.

Claims 23-27 and 30-32

We agree with the Examiner that Kurzius discloses a job posting database being composed of a plurality of job posting records that are generated from job posting submissions received from the web server and the job posting review template including fields used to display job criteria for a particular job posting record that is accessed for review. (Fact 1.) We find these teachings in Kurzius satisfy the limitation of generating a plurality of needs profiles, wherein each needs profile comprises attributes about a need associated with a particular hiring agent. We agree with the Examiner that Kurzius discloses a job posting submission generated by an employer using a web server is organized and stored in a particular job posting record. (Fact 1.) We find this disclosure in Kurzius satisfies the limitation of storing the needs profiles as a data record in memory accessible by the human resources server. We agree with the Examiner that Kurzius discloses a web server receives candidate qualification data in the form of a candidate profile from a job candidate. (Fact 2.) We find this disclosure in Kurzius satisfies the limitation of generating a plurality of capability profiles, wherein each capability profile includes attributes of a job applicant. We agree with the Examiner that Kurzius discloses candidate qualification data is communicated to the database server for processing, indexing and storage.

(*Id.*) We find this disclosure in Kurzius satisfies the limitation of storing the capabilities profiles as a data record in memory accessible by the human resources server. We agree with the Examiner that Joao teaches providing job searching services, recruitment services and/or recruitment-related services, which can be programmed to be self-activating and/or be activated automatically. (Fact 4.) We find this teaching in Joao satisfies repetitively and automatically matching the needs profiles and capability profiles to identify matched profiles, wherein a match comprises a set of profiles judged to be substantially compatible based upon correspondence of the attributes specified therein.

The Appellants have contended that Shapiro does not teach the limitation of notifying a first user associated with one of the needs profiles and a second user associated with one of the capability profiles of the match, wherein the notifying comprises providing a degree of compatibility for the match to the first user and a degree of compatibility for the match to the second user. We agree with the Appellants. Shapiro's provisional application suggests analyzing a preference profile for each participating party to derive a list of parties providing a likely good fit to the party's preferences, communicating the list to the party, and optionally having each list ranked according to the approximate degree of fit. (Fact 9.) Shapiro's disclosure is limited to providing one party, based on their preferences, a list that is arranged in an order of relativeness, i.e., ranked. As such, Shapiro's disclosure only teaches a listing of parties provided to the one party based on the party's preference. The limitation requires a "first" degree of compatibility for the match to a first user and a "second" degree of compatibility for the match to a second user. As such, two orders of

classification, one for the first user and one for the second user, need to be disclosed in Shapiro's provisional application. Shapiro, at most, discloses one. Accordingly, we find the Appellants have identified an error in the Examiner's rejection of claims 23, 25-27, and 30-32.

Claim 28

The Appellants attempted to cancel claim 28 in an after-final Amendment; however, the Examiner refused to enter the Amendment. As such, this claim is still before us. We summarily affirm this rejection advanced by the Examiner, because Appellants have neither requested review of this ground of rejection as to claim 28 nor addressed the merits of this rejection in the Brief. See 37 C.F.R, §§ 41.37(c)(1)(vi) and (vii); Manual of Patent Examining Procedure § 1205.02.

CONCLUSIONS OF LAW

The Appellants have proven that the Examiner erred in rejecting claims 1-9, 12, 13, 21, and 23, 25-27, and 29-32 as being obvious over Kurzius, Joao, and Shapiro.

The Appellants have not proven that the Examiner erred in rejecting claims 15, 17, 18-20, 22, and 28 as being obvious over Kurzius, Joao, and Shapiro.

DECISION

The Examiner's decision to reject claims 1-9, 12, 13, 21, and 23, 25-27, and 29-32 as being obvious over Kurzius, Joao, and Shapiro is reversed.

The Examiner's decision to reject claims 15, 17, 18-20, 22, and 28 as being obvious over Kurzius, Joao, and Shapiro is affirmed.

AFFIRMED-IN-PART

JRG

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